UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

SCHAGHTICOKE TRIBAL NATION, Plaintiff,	:	
v.	:	Case No: 3:06cv81 (PCD)
GALE NORTON, SECRETARY, DEPARTMENT OF THE INTERIOR,	:	
JAMES E. CASON, ASSOCIATE DEPUTY SECRETARY, DEPARTMENT OF THE INTERIOR,	:	
UNITED STATES DEPARTMENT OF THE INTERIOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
OFFICE OF FEDERAL ACKNOWLEDGMENT, and	:	
INTERIOR BOARD OF INDIAN APPEALS, Defendants.	:	

RULING ON MOTION TO INTERVENE

The State of Connecticut ("the State"), the Town of Kent ("the Town"), the Kent School Corporation ("the Kent School"), and the Connecticut Light and Power Company ("CL&P") (collectively, the "Movants") move, pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, to intervene as of right as parties in this action. Alternatively, the Movants request that they be permitted, pursuant to Rule 24(b), to intervene in this action. Defendants Gale Norton, Secretary of the Interior (the "Secretary"), James E. Cason, Associate Deputy Secretary of the Interior (the "Associate Deputy Secretary"), the United States Department of the Interior

("DOI"), the Bureau of Indian Affairs ("BIA"), the Office of Federal Acknowledgment ("OFA"), and the Interior Board of Indian Appeals ("IBIA") (collectively, the "Federal Defendants") filed a stipulation indicating that they have no objection to the Movants' Motion to Intervene. Plaintiff Schaghticoke Tribal Nation ("STN") objects to the Movants' motion. For the reasons stated herein, the Movants' Motion to Intervene [Doc. No. 20] is **granted**.

I. BACKGROUND

A brief recitation of the facts underlying this administrative appeal is necessary to the resolution of the instant motion. For the past twenty-five years, Plaintiff has sought recognition from the United States government as a federally recognized Indian Tribe. In this action, Plaintiff seeks to have this Court order the Federal Defendants to recognize it as a tribe or, in the alternative, to set aside the BIA's Reconsidered Final Determination Denying Federal Acknowledgment, issued on October 12, 2005 (the "Reconsidered Final Determination") and decide whether STN is a federally recognized tribe. (Compl. ¶¶ 79-80.) The Reconsidered Final Determination is the result of lengthy administrative proceedings, at each stage of which the Movants participated extensively as full parties or, in the case of the State of Connecticut, as *amicus curiae*.

Plaintiff initiated administrative proceedings before the BIA in December 1981 by filing a letter of intent to petition for federal recognition. Plaintiff filed its first documented petition in December 1994 and its petition went on "active consideration" on June 5, 2002. (See Final Determination for the Schaghticoke Tribal Nation at 3 (January 9, 2004) (hereinafter "Final Determination").)

While the administrative proceedings were pending before the BIA in 1998 and 2000,

Plaintiff initiated two actions before this Court to recover land it claimed was illegally transferred under the federal Nonintercourse Act. See Schaghticoke Tribal Nation v. Kent School, 3:98cv01113 (PCD); Schaghticoke Tribal Nation v. Connecticut Light & Power, 3:00cv00820 (PCD). Plaintiff was also a defendant in a condemnation action brought by the United States. See United States v. 43.47 Acres of Land, More or Less, Situated in the County of Litchfield, Town of Kent, H-85-1078 (PCD). The condemnation action and the two land claim actions have been consolidated. The land at issue in the two land claim actions is owned by, *inter alia*, the Town, the Kent School, and the CL&P—i.e., three of the Movants here. The other Movant, the State, sought and received permission from this Court to appear in the Kent School land claim action as an *amicus curiae*.

In light of Plaintiff's action against the Federal Defendants seeking to compel them to issue an acknowledgment decision, Plaintiff and the Federal Defendants entered into a negotiated agreement—subsequently approved and ordered by this Court—which governed the deadlines and procedures for the BIA's evaluation of Plaintiff's petition for federal recognition and staying the court proceedings. (See Stip. Order re: Further Proceedings in United States v. 43.47 Acres of Land, 2:85-cv-01078 (PCD) [Doc. No. 170] (hereinafter the "Stipulated Order").) The Stipulated Order was the product of several months of negotiations among the parties—including the Movants—and contemplated that the Movants would have significant roles throughout the proceedings, which would include filing comments and evidence to the BIA prior to and after the issuance of the proposed finding, participating in negotiations concerning the appeal of a final decision to the IBIA, and/or obtaining "review of the final determination under the Administrative Procedure Act ('APA')." (Id. at 7.) This Court's Scheduling Order, dated May 8,

2001 as subsequently amended (the "Scheduling Order") expressly addresses administrative appeals to this Court and provides:

> (k) Any request for judicial review of the final decision under the Administrative Procedure Act by any party or *amici* to these cases shall be filed within 90 days of its effective date and shall be filed in this court as a case related to the above-captioned cases.

In accordance with this Scheduling Order, the Movants filed comments and evidence to the BIA prior to its issuance of the proposed finding on December 11, 2002, which concluded that Plaintiff had not satisfied the requirements for recognition. (Id. at 4.) The Movants then filed comments on the proposed finding and submitted additional evidence. (Id. at 5.) On January 29, 2004, the Assistant Secretary reversed course and issued a Final Determination recognizing the STN as a tribe under the regulations. See Notice of Final Determination, 69 Fed. Reg. 5570 (Feb. 5, 2004).

Following negotiations pursuant to the Stipulated Order, the Movants filed a request for reconsideration with the IBIA, asking that it vacate the Final Determination on various grounds, including the improper use of recognition under Connecticut law to support federal recognition. (See Mem. Supp. Mot. Intervene 5.) The IBIA ultimately granted that request on several grounds and vacated and remanded the Final Determination to the Assistant Secretary "for further work and reconsideration" to address several errors of law and other deficiencies. In re. Fed. Acknowledgment of the Schaghticoke Tribal Nation, 41 I.B.I.A. 30, 42 (May 12, 2005).

On remand, the Movants presented argument as to why the STN did not meet the requirements for federal recognition. The Assistant Secretary agreed with the Movants' arguments and concluded in his Reconsidered Final Determination that the STN does not meet

the requirements for federal recognition and therefore, that the petition should be denied. Notice of Reconsidered Final Determination to Decline to Acknowledge the Schaghticoke Tribal Nation, 70 Fed. Reg. 60101 (Oct. 14, 2005); see also In re. Fed Acknowledgment of the Schaghticoke Tribal Nation, 41 I.B.I.A. 30, 42 (May 12, 2005). The STN then filed this Petition for Review, brought under the Administrative Procedure Act ("APA"), 5 U.S.C. § 551 et seq., of the Reconsidered Final Determination, however, Plaintiff failed to name the Movants as parties.

II. DISCUSSION

The Movants argue that because they were parties and *amicus* to the land claim actions, because Plaintiff has attempted to "wrest title to the subject land from the Town, the Kent School, and CL&P," and due to this Court's Stipulated Order and the Movants' "full and lengthy participation as parties through the administrative proceedings at the BIA and the IBIA," they are entitled to participate in this appeal as full parties under either the mandatory or permissive standards for intervention. (Mem. Supp. Mot. Intervene 6.) Plaintiff argues that the Movants are not named as parties because "the Federal Defendants bear sole responsibility for administering the Federal Acknowledgment regulations and for issuing the Reconsidered Negative Final Determination which is the focus of the appeal." (Mem. Opp. Mot. Intervene 2.) According to Plaintiff, regardless of their attempts through the years to influence the recognition process, "the Movants were not authorized to issue the Reconsidered Final Determination and are therefore not appropriate parties." (Id.) The Federal Defendants filed a stipulation indicating that they have no objection to the Movants' Motion to Intervene. (Fed. Defs.' Stip. of Consent [Doc. No. 21].)

A. Intervention as of Right

Rule 24(a) of the Federal Rules of Civil Procedure establishes when proposed intervenors

must be allowed to intervene "as of right," providing, in pertinent part, that:

> Upon timely application anyone shall be permitted to intervene in an action: . . . (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Fed. R. Civ. P. 24(a). In order to intervene as of right pursuant to Rule 24(a)(2), a potential intervenor must: "(1) file a timely motion; (2) show an interest in the litigation; (3) show that its interest may be impaired by the disposition of the action; and (4) show that its interest is not adequately protected by the parties to the action." In re Holocaust Victim Assets Litigation, 225 F.3d 191, 197 (2d Cir. 2000) (subsequent procedural history omitted). Failure to satisfy any one of the requirements is sufficient grounds for denial of the motion to intervene. Id. at 197-98.

The first three requirements are not contested. Plaintiff contends, however, that the Movants have not satisfied the fourth requirement, arguing that the Movants have not met their burden of showing that their interest in the action is not adequately protected by the Federal Defendants. (Mem. Opp. Mot. Intervene 3.)

1. Interest in Disposition

Although it is not contested that the Movants have an interest in the outcome of this action, a brief discussion of their relative interests is necessary to the issue of the adequacy of representation. Although the Movants bear the burden of establishing inadequate representation, the requisite showing may be less if they can show that they have very strong interests at stake. See United States v. Hooker Chems. & Plastics Corp., 749 F.2d 968, 983 (2d Cir. 1984) ("A showing that a very strong interest exists may warrant intervention upon a lesser showing of

impairment or inadequacy of representation.").

a. *The State of Connecticut*

The Movants argue that this action implicates substantial sovereign interests of the State, as "federal recognition of the STN would fundamentally impact the balance of power between the State and the STN by creating a quasi-sovereign entity within the State's borders." (Reply 4.) The State of Connecticut has a narrower interest than does the federal government in protecting its own sovereign interests and by extension, Connecticut's citizens. See Sierra Club v. Glickman, 82 F.3d 106, 110 (5th Cir. 1996) (holding that the district court erred in concluding that the federal agency would adequately represent the State's interest, noting that the federal government "is legally obliged to represent the interests of all U.S. citizens," whereas "[t]he State of Texas has a narrower but independently vital interest in representing its residents, maintaining its agricultural industry, and allocating its natural resources"); Wyandotte Nation v. City of Kan. City, 200 F. Supp. 2d 1279, 1288-89 (D. Kan. 2002) (permitting the State of Kansas to intervene in a land claim action based on the fact that "[t]he state's taxation, regulatory, and jurisdictional interests are unique and are not truly represented by either the private landowners or by the city").

b. *The Kent School*

The Kent School has valuable real property interests at stake. As an established educational institution with a "multi-million dollar campus," the school has substantial interests in preserving its core campus. According to the Movants, if Plaintiffs are successful in the land claim action, which seeks to dispossess the Kent School of its "core campus," that would "probably result in the closure of the school." (Reply 5.)

c. *The Town of Kent*

The Town also has substantial interests at stake, as Plaintiff's land claim action impacts approximately 2,000 acres of land and seeks unspecified money damages. The Movants contend that a ruling in Plaintiffs' favor in the land claims action "would significantly affect the Town in many ways, from the loss of property that is presently on its tax rolls, to the loss of planning, zoning, and wetlands jurisdiction over the land claimed by the STN, to the disruption and probable destruction of the operations of the Kent School, a major employer and economic engine in the town." (Reply 5-6.)

d. *CL&P*

Finally, CL&P also has an interest in the litigation. A portion of the land claimed by Plaintiff in its land claims action is operated as a federally licensed hydroelectric generation facility. If Plaintiff obtains a judgment in its favor in this action, such "may impair the operation of the hydroelectric facilities and potentially expose CL&P to a substantial claim for damages." (Reply 6.)

2. Adequate Representation

Some burden of showing inadequacy is placed on the proposed intervenor. The burden to show that the representation of their interests by existing parties may be inadequate is generally minimal, Trbovich v. United Mine Workers, 404 U.S. 528, 538 n.10, 30 L. Ed. 2d 686, 92 S. Ct. 630 (1972),[1] however, the Second Circuit has "demanded a more rigorous showing of inadequacy in cases where the putative intervenor and a named party have the same ultimate objective."

[1] The Trbovich Court held that Rule 26(a)(2)'s fourth requirement "is satisfied if the applicant shows that representation of his interest 'may be' inadequate; and the burden of making that showing should be treated as minimal." 404 U.S. at 538 n.10 (citing 3B J. Moore, Federal Practice § 24.09-1 [4] (1969)).

Butler, Fitzgerald & Potter v. Sequa Corp., 250 F.3d 171, 179 (2d Cir. 2001) (citing Wash. Elec. Coop., Inc. v. Mass. Mun. Wholesale Elec. Co., 922 F.2d 92, 98 (2d Cir. 1990); U.S. Postal Serv. v. Brennan, 579 F.2d 188, 191 (2d Cir. 1978)). When a party and the proposed intervenors share a common interest, the movants, in order to intervene, "must rebut the presumption of adequate representation by the party already in the action." Id. at 179-80 (citing Brennan, 579 F.2d at 191).

This case presents a fairly common situation: a group (or groups) with recognized interests wishes to intervene and defend an action of the government which the government itself is defending. In such cases courts tend to assume, in the absence of evidence to the contrary, "that the government will adequately defend its actions, at least where its interests appear to be aligned with those of the proposed intervenor." Maine v. Dir., United States Fish & Wildlife Serv., 262 F.3d 13, 19 (1st Cir. 2001) (citing Mass. Food Ass'n v. Mass. Alcoholic Beverages Control Comm'n, 197 F.3d 560, 567 (1st Cir. 1999)); see also Hooker Chems., 749 F.2d at 984-87; Forest Conservation Council v. United States Forest Serv., 66 F.3d 1489, 1498-1499 (9th Cir. 1995); Pennsylvania v. Rizzo, 530 F.2d 501, 505 (3d Cir.), cert. denied, 426 U.S. 921, 49 L. Ed. 2d 375, 96 S. Ct. 2628 (1976). The Maine Court warned against mechanically applying a presumption, however, noting that "'[p]resumption' means no more in this context than calling for an adequate explanation as to why what is assumed—here, adequate representation—is not so." 262 F.3d at 19. The Maine Court went on to note that because "[t]he facts of these cases vary greatly," the sufficiency of "the proposed intervenors' explanation of inadequacy [] must be determined in keeping with a commonsense view of the overall litigation." Id. (quotation marks and citation omitted). Although it is not clear that a "presumption" of adequate representation should be applied, *some* showing that representation is inadequate will be required in order for

the Movants to be entitled to intervene as of right.

Although there is no "hard-and-fast rule" of what showing must be made to rebut a "presumption" of adequate representation, circumstances that may rebut the presumption of adequacy include, *inter alia*, "evidence of collusion, adversity of interest, nonfeasance, or incompetence." Butler, 250 F.3d at 180. The Movants present no evidence of collusion, nonfeasance, or incompetence, but argue that their interests are different from, and potentially adverse to, those of the Federal Defendants.

Specifically, the Movants claim that the federal government's variety of interests, including, *inter alia*, "its duty to protect Indian tribes, take land into trust, and uphold the BIA determination, whichever way it had come out," do not wholly coincide with their interests, based in part on the fact that one of Plaintiff's claims in this action is that the Federal Defendants have a federal trust obligation to STN as an Indian tribe. (Reply 8 (citing Pet. for Review ¶¶ 16, 77, 79(j)).) The Movants also argue that the Federal Defendants' interests may diverge from their interests due to the "Federal Defendants' interest in continuing and protecting the overall acknowledgment process," the Federal Defendants' "vested interest in defending the actions of the BIA," and the fact that "the BIA has previously rejected arguments the Movants may want to raise as alternative grounds for affirmance." (Reply 9.)

The Movants also argue that because Plaintiff bases its claim in part on irregularities in the BIA acknowledgment process, it is foreseeable that the Movants' interests regarding those issues may diverge with the Federal Defendants' interests. (Mem. Supp. Mot. Intervene 16-17 (citing Trbovich, 404 U.S. at 538-39) (permitting the union members to intervene and noting that the Secretary of Labor's two distinct interests—i.e., representing the individual union members

on the one hand and protecting the "vital public interest" on the other—"may not always dictate precisely the same approach to the conduct of the litigation").) Moreover, the Movants contend that their interests on the issue of the nature and significance for federal acknowledgment purposes of the State's historical relationship with the STN is not "necessarily identical" to those of the Federal Defendants, and that due to the high stakes involved and the Movants' special expertise, they should be entitled to full participation in the acknowledgment process. (Id. 17.)

Finally, substantial property rights are at stake. (Id.) As discussed above, the Kent School stands to lose a large percentage of its central campus and the Town stands to lose a significant amount of land, potentially having a significant effect on its tax rolls and depriving it of jurisdiction over the land. Moreover, CL&P may be harmed through the impairment of the operation of its hydroelectric facilities and potential exposure to claims for damages. Because the Federal Defendants do not have a specific interest in protecting these individual property rights, the Movants argue that they "should not be forced to watch from the sidelines and hope the Federal Defendants—who have previously issued and defended decisions in STN's favor—will adequately protect their interests." (Reply 1-2.) Because the federal government is charged with representing the broad public interest, inadequate representation by the Federal Defendants is more likely to be found if the Movants "assert[] a personal interest that does not belong to the general public." Forest Conservation Council v. United States Forest Serv., 66 F.3d 1489, 1498-1499 (9th Cir. 1995) (quoting 3B Moore's Federal Practice, ¶ 24.07[4] at 24-78 (2d ed. 1995)). Plaintiffs compare this case to the First Circuit's denial of intervention in Maine, 262 F.3d 13, however, in that cases, the putative intervenors did not have direct private interests which the government did not have and would not have any interest in protecting. See Maine,

262 F.3d at 20 (comparing that case to Cotter v. Massachusetts Ass'n of Minority Law Enforcement Officers, 219 F.3d 31 (1st Cir. 2000), and Conservation Law Found. v. Mosbacher, 966 F.2d 39 (1st Cir. 1992), both cases in which the intervenors had direct private interests[2]).

The Bureau of Indian Affairs acknowledgment regulations define "interested parties" entitled to participate in acknowledgment proceedings as always including "the governor and attorney general of the state in which a petitioner is located," and also may include, "local governmental units." 25 C.F.R. § 83.1. The definition of "interested parties" also includes parties whose property is subject to land claims, as it extends to "any person, organization or other entity who can establish a legal, factual or property interest in an acknowledgment determination." Id. This is important, as the Second Circuit has established that Rule 24(a)(2)'s "intervention of right requirements must be examined in the context of the statutory scheme under which the underlying litigation is being pursued." United States v. Pitney Bowes, 25 F.3d 66, 72 (2d Cir. 1994). Here, the governing regulations contemplate and encourage participation by entities such as the Movants in order to protect their strong interests. See 25 C.F.R. § 83.1; see also Guidelines to the Federal Acknowledgment Regulations, at 18 (recognizing the fundamental impact of tribal acknowledgment on the State and the community). Cf. Hooker Chems., 749 F.2d at 989 (in denying intervention in that environmental enforcement action, the court noted that "[t]here is substantial evidence that Congress was opposed to participation by private citizens in this kind of litigation").

The Movants have a strong interest in successfully defending the Reconsidered Final

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[2] The direct private interests at stake in Cotter, 219 F.3d at 34-37, were the jobs and promotions available to black police officers and in Conservation Law Foundation, 966 F.2d at 44, were commercial fishing interests. See Maine, 262 F.3d at 20.

Determination in order to provide a basis for terminating the land claim action. Although the Movants clearly possess interests distinct from those of the Federal Defendants, all are working to obtain the same result—namely, to defend the Reconsidered Final Determination. The Second Circuit has held that differing motives to litigate, in the absence of a disagreement over the desired result, is not sufficient to justify intervention as of right. See Wash. Elec. Coop., 922 F.2d at 98 ("a putative intervenor's interest is not inadequately represented merely because its motive to litigate is different from that of a party to the action"); Natural Res. Def. Council, Inc. v. New York State Dep't of Envtl. Conservation, 834 F.2d 60, 62 (2d Cir. 1987) (holding that an intervenor's interests are adequately represented, in spite of a differing motive to litigate, if the party to the lawsuit "has demonstrated sufficient motivation to litigate vigorously and to present all colorable contentions"). Although the Movants' motive to litigate this petition for review may, based on the land claim actions, be different from that of the Federal Defendants, there still must some showing that the nature of the differing interests is related to "colorable legal differences" that the Federal Defendants would not adequately assert. Natural Res. Def. Council, 834 F.2d at 62; see also Maine, 262 F.3d at 19 (noting that although pure tactical differences in presenting a legal argument do not necessarily render the representation inadequate, private interests which the government has no interest in protecting may be sufficient) (citing Daggett v. Comm'n on Governmental Ethics and Election Practices, 172 F.3d 104, 111-14 (1st Cir. 1999)).

Although the Movants present evidence of their strong private interests in defending the Reconsidered Final Determination, they do not show that they would introduce evidence that the Federal Defendants would be unable or unwilling to present. Because review of federal administrative actions is usually confined to the record before the agency, see SEC v. Chenery

Corp., 318 U.S. 80, 87-88, 87 L. Ed. 626, 63 S. Ct. 454 (1943), the Movants likely would not present any more evidence than would the Federal Defendants. The Movants may have supplemental arguments that they wish to present, however, the primary issue under the APA—i.e., whether the reconsidered final determination is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," and/or "without observance of procedure required by law," 5 U.S.C. § 706(2)(A), (D)—can be adequately addressed by the Federal Defendants.

Ultimately, it is a close question whether the Movants are entitled to intervene as of right. They have not presented a great deal of evidence to support a conclusion that their interests are adverse to those of the Federal Defendants, especially in light of the fact that both the Movants and the Federal Defendants are working to obtain the same result. The Movants' significant private interests, however, militate in favor of intervention. The Court need not decide this issue, because regardless of whether the Movants are entitled to intervene as of right, the Court will permit them to intervene pursuant to Rule 24(b).

B. Permissive Intervention

Even if the Movants are not entitled to intervene as a matter of right, this Court may still permit them to intervene. Rule 24(b) of the Federal Rules of Civil Procedure lays out the standard for permissive intervention, providing, in pertinent part, that:

> Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute . . . administered by a federal or state governmental officer or agency . . . the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will

unduly delay or prejudice the adjudication of the rights of the original parties.

Fed. R. Civ. P. 24(b).

The Movants' request is timely. The Petition for Review [Doc. No. 1] was filed on January 12, 2006, the Federal Defendants filed their Answer [Doc. No. 16] on March 27, 2006, and the Movants moved to intervene on April 24, 2006 [Doc. No. 20], prior to any significant substantive motions by the parties to the case. They have sought to intervene at a very early stage in this litigation and have previously participated in actions before this Court; specifically, they were parties and *amicus* to the related land claim actions. Moreover, the Movants were accorded full party status in the proceedings before the BIA and IBIA and participated in those proceedings in accordance with this Court's Stipulated Order.

In addition to the question of whether a motion to intervene is timely, courts also evaluate (1) "whether the applicant will benefit by intervention," (2) "the nature and extent of the intervenors' interests," (3) "whether [the intervenors'] interests are 'adequately represented by the other parties,'" and (4) "'whether parties seeking intervention will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.'" United States Postal Service v. Brennan, 579 F.2d 188, 191-192 (2d Cir. 1978) (quoting Spangler v. Pasadena City Board of Education, 552 F.2d 1326, 1329 (9th Cir. 1977), also citing 7A C. Wright & A. Miller, Federal Practice and Procedure § 1913). Permissive intervention is wholly discretionary with the trial court. Id. at 191.

As discussed in the previous section, the Movants make a strong case for intervention, citing their strong interest in the resolution of the case, their unique property interests, and their

considerable experience with the case and the issues involved. (Mem. Supp. Mot. Intervene 19.) Plaintiff, in the Opposition, argues that the Movants' participation will only complicate and further delay the appeal, contending that based on the Movants' and the Federal Defendants' similar interests, there is no benefit to allowing the Movants to intervene as full parties—such "will only lead to redundancy, further posturing to the media and delay." (Mem. Opp. Mot. Intervene 7-8.) Plaintiff does, however, consent to their participation on an amicus status and asserts that such participation will fully serve the Movants' interests.

The importance of the issues at stake to the Movants and the fact that they have participated extensively in the proceedings up to this point militate strongly in favor of permitting them to intervene. According to the Movants, their participation will not unduly complicate or delay the proceedings—they have acted jointly to avoid unnecessary duplication in the past and intend to do so in the future.

This Court finds that permitting the Movants to participate in this action will facilitate, rather than "unduly delay or prejudice," the "adjudication of the rights of the original parties" by assisting the Court in resolving the Petition for Review. The Movants' experience with these issues and full participation up to this point with help to provide the Court with a full picture of the issues to be decided and will permit the issues to be fully and thoroughly evaluated in an efficient, just, and speedy manner. Their participation will help to insure that their property interests are protected and their experience in both proceedings, familiarity with the administrative record, and technical expertise regarding issues considered during the recognition process will enable them to contribute to the full development of the underlying factual issues raised in this case. See Int'l Union v. Scofield, 382 U.S. 205, 215-16, 86 S. Ct. 373, 15 L. Ed. 2d

272 (1965) ("Participation in defining the issues before the court guarantees that all relevant material is brought to its attention, and makes the briefs on the merits more meaningful . . . . an amicus—with the exception of the right to file a brief—might be unable adequately to present all the relevant data to the court.") The Federal Defendants have indicated that they have no objection to the Movants' intervention. Accordingly, pursuant to Federal Rule of Civil Procedure 24(b), the Movants will be permitted to intervene in this action as full parties.

III. CONCLUSION

For the foregoing reasons, the Movants' Motion to Intervene [Doc. No. 20] is **granted** and the Movants' Answer, attached as Exhibit 1 to the Motion to Intervene, shall be entered.

SO ORDERED.

Dated at New Haven, Connecticut, June ___, 2006.

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Peter C. Dorsey, U.S. District Judge
United States District Court